

DECLARATION OF Digium, Inc.

I, Mark Spencer, of Huntsville, Alabama, declare:

1. I submit this declaration on behalf of my company, Digium, Inc. ("Digium"). Digium is a corporate member of the Electronic Frontier Foundation, a petitioner in this case.

2. I am president and chief executive officer of Digium, a Huntsville, Alabama company that manufactures telecommunications equipment. Our website is at <http://www.digium.com>.

3. Digium is the primary developer and sponsor of Asterisk, the open-source Voice-over-Internet-Protocol (VoIP) private-branch exchange (PBX). I am the original author of Asterisk, but over three hundred people have contributed to the development of Asterisk.

4. Asterisk is a community-built and -supported Open Source telephony platform that is lowering cost, increasing innovation and increasing competition in the market place by lowering the barrier to entry for next-generation services and providing an easily and freely extensible platform for new services, protocols and more.

5. Digium offers a variety of specially designed low-and high-density telephony hardware and professional services related to Asterisk. Asterisk is heavily used by VoIP startups like VoiceGlo and VoicePulse and lightly used by larger VoIP companies like Vonage.

6. The Federal Communications Commission's (FCC) decision to extend CALEA obligations to information services like VoIP is likely to harm Digium and Digium's customers.

7. In particular, Digium is likely to suffer harm if the 18-month CALEA compliance deadline set in the FCC's First Report and Order is not stayed or delayed.

8. Digium customers who offer interconnected VoIP services will need to comply with CALEA by May of 2007. It will be very difficult for Digium to help them because the FCC has not stated what CALEA compliance actually means.

9. I also believe that, if CALEA is permitted to be extended to Internet applications, the government may contend that Digium is a provider of "telecommunications support services" for CALEA purposes, and that the design and architecture of Asterisk open-source software must accommodate CALEA's law enforcement assistance requirements. Again, because the FCC has not yet stated what CALEA compliance actually means and exactly who is covered, it is very difficult for Digium to determine whether and how to comply with CALEA.

10. As a small-business owner, I believe it is fundamentally unfair for the FCC to set a compliance deadline before the meaning of compliance has been articulated.

11. I further believe that Digium will be especially harmed by CALEA requirements, absent a stay or delay, because Digium is a provider of open-source VoIP software. Open-source software is developed and written in an open, collaborative manner that has many advantages over proprietary software development. See <http://en.wikipedia.org/wiki/Open_source>. However, because many in the open-source community are unpaid volunteers, it is often difficult to meet short deadlines. In this case, the 18-month compliance deadline is effectively shortened by an unknown period because compliance has not yet been defined.

12. Beyond the 18 month deadline, I further believe that applying CALEA to VoIP is likely to place unreasonable restrictions upon the natural architecture of a packet voice system. In a traditional circuit-switched system, the audio path and setup follows through one provider to another and as such, monitoring can take place at any place along the path. However, in packet voice (including VoIP) architectures, the audio content of the communications often passes directly from one customer to the other (unless it must cross the PSTN, in which case it goes to a gateway which in turn passes the call across the traditional PSTN), without passing across the service provider's network. This allows substantially better quality and efficiency in addition to substantially lower cost to the consumer. If the Federal Bureau of Investigation is permitted to impose design mandates onto VoIP services, it is very likely that Digium's ability to design and distribute efficient and cost-effective VoIP software will be inhibited.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this _____ day of December, 2005

A handwritten signature in black ink, appearing to read 'Mark Spencer', written over a horizontal line.

MARK SPENCER
President/CEO
Digium, Inc.